UNITED
NATIONS

E

Economic and Social
Council

Distr.
LIMITED

E/CN.4/Sub.2/1992/L.2
12 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention
of Discrimination and
Protection of Minorities
Forty-fourth session

Agenda item 10 (d)

THE ADMINISTRATION OF JUSTICE AND THE HUMAN RIGHTS OF DETAINEES

RIGHT TO A FAIR TRIAL

Draft resolution submitted by Mr. Al-Khasawneh, Ms. Attah, Mr. Bossuyt, Mr. Boutkevitch, Mr. Despouy, Mr. Eide, Mr. Guissé, Mr. Ul-Hakim, Mr. Hatano, Mr. Heller, Mr. Joinet, Mr. Khalifa, Ms. Ksentini, Mr. Maxim, Mr. Merrills, Mr. Saboia, Ms. Warzazi and Mr. Yimer

1992/... Right to a fair trial

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Recalling its resolution 1989/27 of 1 September 1989, in which it decided to appoint Mr. Stanislav Chernichenko and Mr. William Treat as rapporteurs to prepare a report on existing international norms and standards pertaining to the right to a fair trial,

Recalling also its resolution 1990/18 of 30 August 1990, in which it decided to entrust Mr. Chernichenko and Mr. Treat with the preparation of a study entitled, "The right to a fair trial: current recognition and measures necessary for its strengthening",

Recalling further its resolution 1991/14 of 28 August 1991, as well as resolutions 1991/43 of 5 March 1991 and 1992/34 of 28 February 1992 of the Commission on Human Rights,

Having examined the brief report on the right to a fair trial (E/CN.4/Sub.2/1990/34), the second report (E/CN.4/Sub.2/1991/29) and the third report (E/CN.4/Sub.2/1992/24 and Add.1-3) prepared by the Special Rapporteurs,

Welcoming the recommendations made by the Special Rapporteurs in section IV of their third report,

1. Expresses its appreciation to Mr. Stanislav Chernichenko and Mr. William Treat for their comprehensive third report which summarizes the Inter-American and European interpretations of the right to a fair trial as well as information on habeas corpus and amparo;

2. Requests the Special Rapporteurs to submit a fourth report analysing national practices in regard to the right to a fair trial, including information received in response to the questionnaires, to the Sub-Commission at its forty-fifth session;

3. Requests the Secretary-General to transmit the report to be prepared by the Special Rapporteurs, as soon as he receives it, to Mr. Fisseha Yimer and invites this expert to examine the report with a view to making comments thereon at the forty-fifth session of the Sub-Commission, without prejudice to the right of all members of the Sub-Commission to make comments and express their opinions on the report;

4. Looks forward to the preparation by the Special Rapporteurs of a fifth report in 1994 containing recommendations for strengthening the implementation of the right to a fair trial in the light of interpretations of the right by international bodies and contemporary national practices;

5. Urges the Special Rapporteurs to make suggestions on how the right to a fair trial might be further protected, notably by making the right, or certain aspects of the right, non-derogable, and incorporating basic fair trial guarantees into international standards, for consideration by the Sub-Commission at future sessions;

6. Recommends the following draft decision to the Commission on Human Rights for adoption:

The Commission on Human Rights, noting resolution 1992/-- of .. August 1992 of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, expresses its appreciation to the Special Rapporteurs, Mr. Stanislav Chernichenko and Mr. William Treat, for their continued work on the study entitled, "The right to a fair trial: current recognition and measures necessary for its strengthening", endorses the request to the Special Rapporteurs to continue their study and recommends the following draft decision to the Economic and Social Council for adoption:

"The Economic and Social Council, recalling its decision 1992/230 of 20 July 1992, approved the endorsement by the Commission on Human Rights of the request of the Sub-Commission on Prevention of Discrimination and Protection of Minorities to Mr. Stanislav Chernichenko and Mr. William Treat to continue their study on the right to a fair trial: current recognition and measures necessary for its strengthening, as described in Sub-Commission resolution 1992/--, of .. August 1992 and requests the Secretary-General to provide the Special Rapporteurs with all the assistance necessary for the completion of their task."